

SOLICITOR

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	AUG - 6 2009 REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	--

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 09-03511 PVT	DATE FILED 7/31/9	U.S. DISTRICT COURT 280 South First Street, Rm 2112, San Jose, CA 95113
PLAINTIFF OPENWAVE SYSTEMS INC		DEFENDANT 724 SOLUTIONS (US)INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,430,409		SEE ATTACHED COMPLAINT
2 6,466,783		
3 6,742,022		
4 7,054,626		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK Betty Walton	DATE August 3, 2009
-----------------------------	-----------------------------------	------------------------

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

1 DANIEL JOHNSON, JR. (State Bar No. 57409)
2 BRETT M. SCHUMAN (State Bar No. 189247)
3 RYAN L. SCHER (State Bar No. 244706)
MORGAN, LEWIS & BOCKIUS LLP
4 One Market, Spear Street Tower
San Francisco, CA 94105-1126
5 Tel: 415.442.1000
Fax: 415.442.1001
6 E-mail: djjohnson@morganlewis.com
E-mail: bschuman@morganlewis.com
E-mail: rscher@morganlewis.com

7 Attorneys for Plaintiff
8 OPENWAVE SYSTEMS INC.

ORIGINAL FILED

JUL 31 2009

RICHARD W. WICKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PVT

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 CV 09 3511
12 Case No.

13 OPENWAVE SYSTEMS, INC.,
a Delaware corporation,

14 Plaintiff,

15 v.

16 724 SOLUTIONS (US) INC., a Delaware
17 corporation, and 724 SOLUTIONS
SOFTWARE INC., a Delaware
18 corporation,

19 Defendants.

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

DEMAND FOR JURY TRIAL

1 Plaintiff OPENWAVE SYSTEMS, INC. ("OPENWAVE") alleges as follows:

2 **PARTIES**

3 1. Plaintiff OPENWAVE is a Delaware corporation with its principal place of
4 business at 2100 Seaport Blvd. Redwood City, California, 94063. OPENWAVE is qualified and
5 duly authorized to conduct business in the State of California.

6 2. On information and belief, defendant 724 SOLUTIONS (US) INC. is a Delaware
7 corporation with its principal place of business at 3916 State Street, Ste. 200, Santa Barbara,
8 California, 93105.

9 3. On information and belief, defendant 724 SOLUTIONS SOFTWARE INC. is a
10 Delaware corporation with its principal place of business at 3916 State Street, Ste. 200, Santa
11 Barbara, California, 93105.

12 **JURISDICTION AND VENUE**

13 4. This is an action arising under the patent laws of the United States, 35 U.S.C. §§ 1
14 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to
15 28 U.S.C. § 1331 and 1338(a).

16 5. This Court has personal jurisdiction over defendant 724 SOLUTIONS (US) INC.
17 because 724 SOLUTIONS (US) INC. has its principal place of business in California.

18 6. This Court has personal jurisdiction over 724 SOLUTIONS SOFTWARE INC.
19 because 724 SOLUTIONS SOFTWARE INC. has its principal place of business in California.

20 7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) & (c) and
21 1400(b).

22 **INTRADISTRICT ASSIGNMENT**

23 8. Under Local Rule 3-2(c), this action shall be assigned on a district-wide basis.

24 **PATENTS-IN-SUIT**

25 9. OPENWAVE is the sole owner of U.S. Patent No. 6,430,409 (the "'409 Patent"),
26 filed on November 26, 1997 and issued on August 6, 2002, entitled "Method and Architecture for
27 an Interactive Two-Way Data Communication Network." A true and correct copy of the '409
28

1 Patent is attached to this Complaint as Exhibit A.

2 10. OPENWAVE is the sole owner of U.S. Patent No. 6,466,783 (the “‘783 Patent”),
3 filed on June 8, 1998 and issued on October 15, 2002, entitled “Visual Interface to Mobile
4 Subscriber Account Services.” A true and correct copy of the ‘783 Patent is attached to this
5 Complaint as Exhibit B.

6 11. OPENWAVE is the sole owner of U.S. Patent No. 6,742,022 (the “‘022 Patent”),
7 filed on April 30, 1998 and issued on May 25, 2004, entitled “Centralized Service Management
8 System for Two-Way Interactive Communication Devices in Data Networks.” A true and correct
9 copy of the ‘022 Patent is attached to this Complaint as Exhibit C.

10 12. OPENWAVE is the sole owner of U.S. Patent No. 7,054,626 (the “‘626 Patent”),
11 filed on August 20, 2001 and issued on May 30, 2006, entitled “Method and Architecture for an
12 Interactive Two-Way Data Communication Network.” A true and correct copy of the ‘626 Patent
13 is attached to this Complaint as Exhibit D.

14 **FIRST CLAIM FOR RELIEF**

15 (Infringement of U.S. Patent No. 6,430,409)

16 13. OPENWAVE realleges and incorporates by reference the allegations stated in
17 paragraphs 1 through 12 of this Complaint.

18 14. On information and belief, 724 SOLUTIONS (US) INC. and 724 SOLUTIONS
19 SOFTWARE INC. (collectively “Defendants”), by engaging in the unauthorized manufacture (or
20 causing to be manufactured), importation, use, sale and/or offer for sale of products that are
21 covered by one or more of the claims of the ‘409 Patent, has committed acts of direct,
22 contributory and/or inducement of infringement of one or more claims of the ‘409 Patent. These
23 acts constitute violations of 35 U.S.C. § 271. Such infringing products include, but are not
24 limited to, the Seamless Access solution, X-treme Mobility Suite, and X-treme Mobile Gateway.

25 15. On information and belief, Defendants’ infringement of the ‘409 Patent is, has
26 been, and continues to be willful and deliberate, entitling OPENWAVE to increased damages
27 under 35 U.S.C. § 284 and to attorneys’ fees and costs incurred in prosecuting this action under
28 35 U.S.C. § 285.

1 products that are covered by one or more of the claims of the '022 Patent, has committed acts of
2 direct, contributory and/or inducement of infringement of one or more claims of the '022 Patent.
3 These acts constitute violations of 35 U.S.C. § 271. Such infringing products include, but are not
4 limited to, the Seamless Access solution, X-treme Mobility Suite, and X-treme Mobile Gateway.

5 25. On information and belief, Defendants' infringement of the '022 Patent is, has
6 been, and continues to be willful and deliberate, entitling OPENWAVE to increased damages
7 under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under
8 35 U.S.C. § 285.

9 26. Such infringement has injured and damaged OPENWAVE. Unless enjoined by
10 this Court, Defendants will continue its infringement, irreparably injuring OPENWAVE.

11 27. As a direct and proximate result of Defendants' infringement of the '022 Patent,
12 OPENWAVE has been and continues to be damaged in an amount yet to be determined.

13 **FOURTH CLAIM FOR RELIEF**

14 (Infringement of U.S. Patent No. 7,054,626)

15 28. OPENWAVE realleges and incorporates by reference the allegations stated in
16 paragraphs 1 through 12 of this Complaint.

17 29. On information and belief, Defendants, by engaging in the unauthorized
18 manufacture (or causing to be manufactured), importation, use, sale and/or offer for sale of
19 products that are covered by one or more of the claims of the '626 Patent, has committed acts of
20 direct, contributory and/or inducement of infringement of one or more claims of the '626 Patent.
21 These acts constitute violations of 35 U.S.C. § 271. Such infringing products include, but are not
22 limited to, the Seamless Access solution, X-treme Mobility Suite, and X-treme Mobile Gateway.

23 30. On information and belief, Defendants' infringement of the '626 Patent is, has
24 been, and continues to be willful and deliberate, entitling OPENWAVE to increased damages
25 under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under
26 35 U.S.C. § 285.

27 31. Such infringement has injured and damaged OPENWAVE. Unless enjoined by
28 this Court, Defendants will continue its infringement, irreparably injuring OPENWAVE.

1 32. As a direct and proximate result of Defendants' infringement of the '626 Patent,
2 OPENWAVE has been and continues to be damaged in an amount yet to be determined.

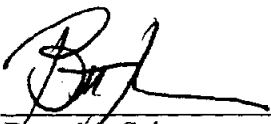
3 **PRAYER FOR RELIEF**

4 WHEREFORE, OPENWAVE prays that this Court enter judgment as follows:

- 5 (A) Adjudicating and declaring that Defendants have infringed, actively induced
6 infringement of, and/or contributorily infringed the Patents-In-Suit;
7 (B) Preliminarily and permanently enjoining the Defendants, their officers, agents,
8 servants, employees, attorneys and all persons in active concert or participation
9 with them from further infringement of the Patents-In-Suit;
10 (C) Ordering that Defendants account, and pay actual damages (but no less than a
11 reasonable royalty), to OPENWAVE for defendant's infringement of the Patents-
12 In-Suit;
13 (D) Ordering that Defendants pay treble damages to OPENWAVE as provided by 35
14 U.S.C. § 284;
15 (E) Ordering that Defendants pay OPENWAVE's costs, expenses, and interest,
16 including prejudgment interest, as provided for by 35 U.S.C. § 284;
17 (F) Declaring this case exceptional under 35 U.S.C. § 285 and awarding OPENWAVE
18 its reasonable attorneys' fees, expenses, and costs incurred in this action; and
19 (G) Granting OPENWAVE such other and further relief as the Court deems just and
20 appropriate, or that OPENWAVE may be entitled to as a matter of law or equity.

21 Dated: July 31, 2009

MORGAN, LEWIS & BOCKIUS LLP


22
23 By 
24 Brett M. Schuman
25 Attorneys for Plaintiff
26
27
28

1 DEMAND FOR JURY TRIAL

2 Pursuant to Federal Rule of Civil Procedure 38, OPENWAVE hereby requests a trial by
3 jury.

4
5 Dated: July 31, 2009

MORGAN, LEWIS & BOCKIUS LLP

6
7
8 By 
9 Brett M. Schuman
Attorneys for Plaintiff